

1 AN ACT

2 RELATING TO THE NEW MEXICO FINANCE AUTHORITY; CHANGING THE
3 COMPOSITION AND QUORUM REQUIREMENTS OF THE NEW MEXICO FINANCE
4 AUTHORITY; PROVIDING FOR REPLACEMENT OF MEMBERS, FOR
5 ORIENTATION OF NEW MEMBERS AND FOR ELECTION OF THE CHAIR AND
6 VICE CHAIR OF THE NEW MEXICO FINANCE AUTHORITY; ESTABLISHING
7 AN AUDIT COMMITTEE IN THE AUTHORITY; IMPOSING RESTRICTIONS
8 AND DUTIES ON MEMBERS OF THE NEW MEXICO FINANCE AUTHORITY.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

11 SECTION 1. Section 6-21-4 NMSA 1978 (being Laws 1992,
12 Chapter 61, Section 4, as amended) is amended to read:

13 "6-21-4. NEW MEXICO FINANCE AUTHORITY CREATED--
14 MEMBERSHIP--QUALIFICATIONS--QUORUM--MEETINGS--COMPENSATION--
15 BOND.--

16 A. There is created a public body politic and
17 corporate, separate and apart from the state, constituting a
18 governmental instrumentality to be known as the "New Mexico
19 finance authority" for the performance of essential public
20 functions.

21 B. The authority shall be composed of eleven
22 members as follows:

23 (1) four members appointed by the governor,
24 one being a certified public accountant, with no more than
25 two from the same political party and with the advice and

1 consent of the senate;

2 (2) the executive director of the New Mexico
3 municipal league;

4 (3) the executive director of the New Mexico
5 association of counties;

6 (4) the secretary of finance and
7 administration;

8 (5) two public members appointed by the
9 president pro tempore of the senate, one from each political
10 party, with the advice and consent of the senate; and

11 (6) two public members appointed by the
12 speaker of the house of representatives, one from each
13 political party, with the advice and consent of the senate.

14 C. The appointed members of the authority shall be
15 appointed to four-year terms. Vacancies shall be filled by
16 the appointing entity for the remainder of the unexpired
17 term. Any member of the authority shall be eligible for
18 reappointment.

19 D. Each appointed member before entering upon the
20 member's duty shall take an oath of office to administer the
21 duties of the member's office faithfully and impartially. A
22 record of the oath shall be filed in the office of the
23 secretary of state.

24 E. The authority shall elect a chair and vice
25 chair from its membership. The authority shall appoint and

1 prescribe the duties of such other officers, who need not be
2 members, as the authority deems necessary or advisable,
3 including chief executive officer and a secretary, who may be
4 the same person. The authority may delegate to one or more
5 of its members, officers, employees or agents such powers and
6 duties as it may deem proper and consistent with the New
7 Mexico Finance Authority Act.

8 F. The chief executive officer of the authority
9 shall direct the affairs and business of the authority,
10 subject to the policies, control and direction of the
11 authority. The secretary of the authority shall keep minutes
12 of all meetings of the authority and a record of all other
13 proceedings of the authority and shall be custodian of all
14 books, documents and papers filed with the authority, the
15 minute book or journal of the authority and its official
16 seal. Minutes of the authority meetings shall be approved in
17 an open meeting of the authority. The secretary of the
18 authority shall make copies of all minutes and other records
19 and documents of the authority and give certificates under
20 the official seal of the authority to the effect that the
21 copies are true copies, and all persons dealing with the
22 authority may rely upon the certificates.

23 G. Meetings of the authority shall be held at
24 least quarterly or at the call of the chair or whenever three
25 members shall so request in writing. Six members constitute

1 a quorum for the transaction of any business. The
2 affirmative vote of at least a majority of a quorum present
3 shall be necessary for any action to be taken by the
4 authority. The authority shall provide an opportunity for
5 public comment at meetings of the authority.

6 H. The authority shall appoint an audit committee
7 from among its membership. Minutes shall be recorded for all
8 meetings of the audit committee and be maintained pursuant to
9 the provisions of the Audit Act and the rules of the state
10 auditor. Audit committee members shall be provided annual
11 training related to the duties of the audit committee. At a
12 minimum, the audit committee shall:

13 (1) attend the entrance and exit conferences
14 for annual and special audits; and

15 (2) meet with the certified public
16 accounting firm performing the external financial audit at
17 least monthly after audit field work until the conclusion of
18 the audit.

19 I. Members shall not be represented on the
20 authority by designees. Members appointed pursuant to
21 Paragraphs (1), (5) and (6) of Subsection B of this section
22 shall have no less than ten years' experience in the field of
23 institutional investment, accounting, economic development,
24 environmental sciences, law, public finance, banking or
25 public project planning or engineering.

1 J. Members of the authority and officers and
2 employees of the authority shall be governed by the
3 provisions of the Governmental Conduct Act. Nothing in this
4 section or in the Governmental Conduct Act shall be construed
5 as prohibiting an officer of a financial institution from
6 participating as a member of the authority in setting general
7 policies of the authority, nor shall any provision of the
8 Governmental Conduct Act prohibit the authority from
9 depositing funds under the jurisdiction of the authority in
10 any financial institution. An authority member shall not
11 hold office or employment in a political party.

12 K. A member of the authority appointed pursuant to
13 Paragraph (1), (5) or (6) of Subsection B of this section may
14 be:

15 (1) deemed by the authority to have resigned
16 for failure to attend three meetings in any twelve-month
17 period and may be replaced by the appointing person or
18 entity; or

19 (2) removed from the authority for other
20 cause, in the manner provided for removal of members of
21 boards of regents under Article 12, Section 13 of the
22 constitution of New Mexico.

23 L. A vacancy in the membership of the authority
24 occurring other than by expiration of term shall be filled in
25 the same manner as the original appointment, but for the

1 unexpired term only.

2 M. The authority shall provide no less than eight
3 hours of orientation and training for new members. The
4 training shall include instruction regarding the mission,
5 goals, strategic plans, operations, programs and funds of the
6 authority and public entity finance and ethics.

7 N. Members of the authority shall annually
8 establish a work plan for the authority and a staffing review
9 analysis of authority staffing levels, training and adequacy.
10 The work plan and staffing review analysis shall be provided
11 to the New Mexico finance authority oversight committee.

12 O. Each member of the authority shall give bond as
13 provided in the Surety Bond Act. All costs of the surety
14 bonds shall be borne by the authority.

15 P. The authority is not created or organized, and
16 its operations shall not be conducted, for the purpose of
17 making a profit. No part of the revenues or assets of the
18 authority shall benefit or be distributable to its members,
19 officers or other private persons. The members of the
20 authority shall receive no compensation for their services
21 but shall be reimbursed for actual and necessary expenses at
22 the same rate and on the same basis as provided for public
23 officers in the Per Diem and Mileage Act.

24 Q. The authority shall not be subject to the
25 supervision or control of any other board, bureau, department

1 or agency of the state except as specifically provided in the
2 New Mexico Finance Authority Act. No use of the terms "state
3 agency" or "instrumentality" in any other law of the state
4 shall be deemed to refer to the authority unless the
5 authority is specifically referred to in the law.

6 R. The authority is a governmental instrumentality
7 for purposes of the Tort Claims Act."

8 SECTION 2. Section 6-21-21 NMSA 1978 (being Laws 1992,
9 Chapter 61, Section 21, as amended) is amended to read:

10 "6-21-21. MONEY OF THE AUTHORITY--EXPENSES--AUDIT--
11 ANNUAL REPORT.--

12 A. All money of the authority, except as otherwise
13 authorized or provided in the New Mexico Finance Authority
14 Act or in a bond resolution, trust indenture or other
15 instrument under which bonds are issued, shall be deposited
16 as soon as practical in a separate account or accounts in
17 banks or trust companies organized under the laws of this
18 state. All deposits of money shall be secured, if required
19 by the authority, in such a manner as the authority
20 determines to be prudent. Banks or trust companies are
21 authorized to give security for deposits of the authority.

22 B. Subject to the provisions of any contract with
23 bondholders, the authority shall prescribe a system of
24 accounts.

25 C. Money held by the authority that is not needed

1 for immediate disbursement, including money held in reserve,
2 may be deposited with the state treasurer for short-term
3 investment pursuant to Section 6-10-10.1 NMSA 1978 or may be
4 invested in direct and general obligations of or obligations
5 fully and unconditionally guaranteed by the United States,
6 obligations issued by agencies of the United States,
7 obligations of this state or any political subdivision of the
8 state, interest-bearing time deposits, commercial paper
9 issued by corporations organized and operating within the
10 United States and rated "prime" quality by a national rating
11 service, other investments permitted by Section 6-10-10 NMSA
12 1978 or as otherwise provided by the trust indenture or bond
13 resolution, if the money is pledged for or secures payment of
14 bonds issued by the authority.

15 D. The authority shall have an audit of its books
16 and accounts made at least once each year by the state
17 auditor or by a certified public accounting firm whose
18 proposal has been reviewed and approved by the state auditor.
19 The cost of the audit shall be an expense of the authority.
20 After the audit report has been released by the state auditor
21 and becomes a matter of public record, the audit report shall
22 be approved in an open meeting of the authority, and copies
23 of the audit report shall be presented in person by a
24 representative of the certified public accounting firm and
25 submitted to the governor and the New Mexico finance

1 authority oversight committee and made available to the
2 public.

3 E. The authority shall submit a report of its
4 activities to the governor and to the legislature not later
5 than December 1 of each year. Each report shall set forth a
6 complete operating and financial statement covering its
7 operations for that year."

8 SECTION 3. TEMPORARY PROVISION--TRANSITION MEMBERSHIP
9 OF THE NEW MEXICO FINANCE AUTHORITY.--

10 A. On the effective date of this act, the
11 secretary of economic development, the secretary of energy,
12 minerals and natural resources, the secretary of environment
13 and the chief financial officer of a state higher educational
14 institution are no longer members of the New Mexico finance
15 authority.

16 B. Within thirty days of the effective date of
17 this act, four members shall be appointed to the New Mexico
18 finance authority pursuant to Paragraphs (5) and (6) of
19 Subsection B of Section 6-21-4 NMSA 1978 and shall serve on
20 an interim basis until confirmed by the senate.

21 C. The four public members appointed by the
22 governor prior to the effective date of this act shall remain
23 members of the New Mexico finance authority subject to the
24 terms of their initial appointment.

25 D. The four members appointed pursuant to

1 Subsection B of this section shall, by lot, determine the
2 initial terms of office for each position so that one
3 position will be for a term of one year, one position will be
4 for a term of two years, one position will be for a term of
5 three years and one position will be for a term of four
6 years. Thereafter, the terms shall be for four years.

7 SECTION 4. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2013._____

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